

20234

**DONELAN, CLEARY, WOOD & MASER, P.C.**

OCT 7, 1996 12:00 PM

ATTORNEYS AND COUNSELORS AT LAW  
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WASHINGTON, D.C. 20005-3934

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October 7, 1996

20234 -A

OCT 7, 1996 12:00 PM

New Recordation No. and -A

Dear Mr. Williams:

On behalf of Manufacturers Bank, I submit for filing and recording under 49 U.S.C. § 11301(a) and the regulations applicable thereunder, executed counterparts of two documents not previously recorded. The first of the two documents (to be filed under a new Recordation No.) is entitled Master Equipment Lease Agreement ("Lease"), dated September 5, 1996. The second of the two documents (to be filed under the new Recordation No. -A) is entitled Notice of Assignment and Amendment Agreement ("Assignment/Amendment"), dated September 5, 1996..

1. The parties to the first document, the enclosed Lease (to be recorded under a new Recordation No.), are:

Diversified Financial Corporation — LESSOR  
Suite 1603  
5330 Waterbury Drive  
Crestwood, IL 60445

Indiana Harbor Belt Railroad Company — LESSEE  
2721 161st Street  
Hammond, IN 46323

The said Lease, among other things, acts to lease by the Lessor to the Lessee two (2) locomotives as identified in Schedule A of the Lease.

*Counterparts - H. Hammon &*

A short summary of the Lease to appear in the index established under 49 U.S.C. § 11301(b) is as follows:

"Lease of 2 locomotives, IHB 2010 and 2017"

2. The parties to the second document, the enclosed Assignment/Amendment, (to be recorded under the aforesaid new Recordation No. -A) are:

Diversified Financial Corporation — ASSIGNOR/LESSOR  
Suite 1603  
5330 Waterbury Drive  
Crestwood, IL 60445

Manufacturers Bank — ASSIGNEE/SECURED PARTY  
1200 North Ashland Avenue  
Chicago, IL 60622

Indiana Harbor Belt Railroad — LESSEE  
Company  
2721 161st Street  
Hammond, IN 46323

The said Assignment/Amendment, among other things, acts to assign by the Assignor to the Assignee a security interest in the above Lease, and also makes some amendments to the Lease, and should be recorded as "-A" under the same Recordation No. as the said Lease.

The equipment covered by the instant Assignment/Amendment is the equipment covered in the above-mentioned Lease.

A short summary of the Assignment/Amendment to appear in the index established under 49 U.S.C. § 11301(b) is as follows:

"Assignment of security interest in above Lease and amends Lease."

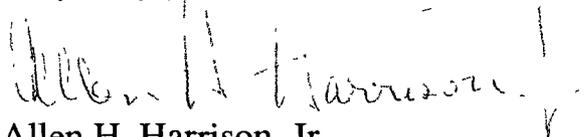
Please index separately the name of the above-mentioned Assignee in the Surface Transportation Board's "Vendee/Assignee" index book ("white pages") as follows:

Index under Manufacturers Bank, "See Recordation No.  
\_\_\_\_\_ -A."

Enclosed is a check in the amount of forty-four dollars (\$44.00) in payment of the filing fees.

Once the filings have been made, please return to bearer the stamped counterpart(s) of the documents not required for filing purposes, together with the letter/fee receipt from the Surface Transportation Board acknowledging the filings, and the two extra copies of this letter of transmittal.

Very truly yours,



Allen H. Harrison, Jr.  
*Attorney for Manufacturers  
Bank for the purposes of  
this filing.*

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

*Enclosures*

BY HAND

8391-020

DIVERSIFIED FINANCIAL  
CORPORATION  
5330 Waterbury Dr. Suite 1603  
Crestwood, Illinois 60445

20294 -A

SEP 11 - 1996 - 2:37 PM

**NOTICE OF ASSIGNMENT AND AMENDMENT AGREEMENT**

September 5, 1996

Indiana Harbor Belt Railroad Company  
2721 161st Street  
Hammond, Indiana 46323

Attn: John E. DeWitt  
Comptroller

Re: Master Equipment Lease Agreement No. 9696 and Schedule A and Addendum A thereto, each dated September 5, 1996 (collectively, the "Lease") between Indiana Harbor Belt Railroad Company as lessee ("Lessee") and Diversified Financial Corporation as lessor (the "Lessor")

Equipment Leased: (2) Alternating Power Locomotives

Road No's IHB2010 & IHB2017

Commencement Date of Lease October 1, 1996

Gentlemen:

Notice is hereby given that the Lessor has collaterally assigned and granted a security interest in, the Lease and all rents and other sums due and to become due thereunder, and the equipment leased thereunder ("Equipment") to Manufacturers Bank, 1200 North Ashland Avenue, Chicago, Illinois 60622 ("Lender"), as security for a loan made or to be made by Lender to Lessor.

Lessee is hereby directed, and by signature below, consents to such assignment and grant of security interest to Lender, and commencing October 1, 1996 (the "Rent Assignment Date") agrees to pay directly to Lender at its address shown above, until Lender instructs Lessee otherwise in writing, all rents and other payments required to be paid by Lessee under the terms of the Lease, including, without limitation, all rentals, stipulated loss value payments, accelerated payments upon default, casualty and insurance loss payments, purchase option payments, renewal rent payments, early termination payments, applicable late charges, attorneys' fees and expenses of collection and enforcement of the Lease, and all other sums due and to become due under the Lease (collectively, the "Payments")

Lessee, by signature below, certifies and confirms to Lender, and agrees as follows:

1. As of the Rent Assignment Date, the following rents and payments remain due under the Lease and Lessee agrees to pay all such rents and payments directly to Lender on their respective due dates: forty-eight (48) equal consecutive monthly rent payments of \$7,250.00 each, commencing on October 1, 1996, and continuing on the 1st day of each month thereafter, ending with the payment due on September 1, 2000, followed by one of the following three mandatory selections (hereafter, the "Mandatory Post Initial Term Selections"):

(a) on October 1, 2000 as the purchase price for Lessee's purchase of the Equipment, a payment of the greater of (i) the Fair Market Value (as determined by Lessor in accordance with the Lease), or (ii) \$170,000.00; or

(b) the purchase price described in subsection (a) above, payable in twelve (12) equal consecutive monthly installments, with interest (payable monthly concurrently with each installment) calculated at a fixed rate equal to the greater of (i) eight and one-half percent (8.5%) or (ii) two percent (2%) above Citibank's prime rate in effect on September 30, 2000, such payments to commence on October 1, 2000, and continue on the same day of each month thereafter; or

(c) the following renewal rents for nineteen (19) successive months for the renewal of the Equipment: eighteen (18) successive monthly rent payments of \$7,250.00, commencing on October 1, 2000, and continuing on the 1st day of each month thereafter, followed by a final payment on the nineteenth (19th) month of \$3,625.00.

Notwithstanding the foregoing, if Lessee has properly elected to exercise its early termination option in the Lease, as amended hereinbelow, and has paid to Lender the Early Termination Payment (as defined in the Lease) (and any accrued and unpaid rents and other sums due as of such termination) , Lessee will be relieved of any obligation to select and pay any of the Mandatory Post Initial Term Selections.

Unless Lessee has properly exercised its early termination option and paid to Lender the required Early Termination Payment, Lessee acknowledges and irrevocably agrees that following the expiration of the Initial Term of 48 months, it will select one of the Mandatory Post Initial Term Selections, and pay directly to Lender all amounts payable in connection therewith.

2. That the aforesaid rentals and payments are the firm, fixed rentals and payments due under the Lease and are not subject to any adjustment.

3. That Lessee's obligation to make the Payments to Lender is absolute and unconditional, and Lessee will pay directly to Lender all Payments without regard to, and shall not assert against Lender, any claim, defense, counterclaim, recoupment, set off or right to cancel or terminate the Lease which Lessee may have against Lessor or any other party. Nothing herein shall be deemed to relieve Lessor of any of its obligations to Lessee under the Lease.

4. That the Equipment is in Lessee's possession at the address specified in the Lease or on its property, and that the Equipment has been fully and finally accepted by duly authorized representatives of Lessee as the Equipment under the Lease.

5. Lessee warrants and represents to the Lender that a true and complete copy of the Lease is attached hereto as Exhibit A, and that it represents the sole agreement between Lessor and Lessee respecting the Equipment, the rentals and all other payments due and to become due under the Lease.

6. That the Lease is in full force and effect, that Lessee will not modify or consent to any modification of the terms of the Lease without the prior written consent of Lender, and that any such modification shall be ineffective without Lender's prior written consent, which shall not be unreasonably withheld.

7. That neither Lessee nor, to Lessee's knowledge, Lessor, has breached the Lease in any respect and that all Payments due under the Lease have been and will continue to be paid in strict accordance with the terms of the Lease.

8. That all representations and duties of Lessor intended to induce Lessee to enter in the Lease whether required by the Lease or otherwise have been fulfilled.

9. Lessee acknowledges that Lender has not assumed, nor shall it be responsible for the performance of, any of the obligations of Lessor, or any other party under the terms of the Lease.

10. That Lessee has received no notice of a prior sale, transfer, assignment, hypothecation or pledge of the Lease, the Payments, or the Equipment.

11. Lessee confirms to Lender that no sublease, assignment or transfer by Lessee shall in any manner impair, diminish or relieve the Lessee of its primary obligations under the Lease, including its obligation to make all Payments directly to Lender, the terms of the Lease notwithstanding.

12. Lessee agrees that Lender is entitled to the benefits of each and every right accorded Lessor in the Lease, including, without limitation, remedies, inspection rights, indemnity rights, right to give consent, right to receive casualty payments and payment of costs and expenses incurred in exercising rights and remedies under the Lease, and the right to receive notices and other documents required to be furnished under the Lease.

13. Lessee acknowledges and confirms that the Lease was executed in counterparts, and Lessee further acknowledges notice from Lessor that the Lender has received the only executed counterpart of the Lease marked "Original", and that said "Original" delivered to Lender is the only counterpart of the Lease constituting "chattel paper" under the Uniform Commercial Code and sufficient to transfer the Lessor's rights in the Lease and Payments.

#### AMENDMENT TO LEASE

In view of Illinois' adoption of Article 2A (the "Act") of the Uniform Commercial Code (the "UCC") governing the leasing of personal property and the parties desire to amend the Lease (a) to comply with the Act, (b) to agree on which provisions of the Act shall not apply to the Lease, and (c) to make certain clarifications thereto, and further to induce Lender to finance the acquisition

Page 2 of 5

cost of the Equipment for Lessor, and for other valuable consideration, the receipt and adequacy of which is hereby acknowledged, Lessor and Lessee, by their signatures below, hereby amend the Lease as follows:

1. Section 11 of the Lease is amended as follows:

(a) In the third (3rd) line of Section 11, the words "at its sole expense" are inserted after the word "Lessee".

(b) In the fourth (4th) line of Section 11, the words "or requisitioned by any governmental unit" are inserted after the word "repair,".

(c) In the fourth (4th) line of Section 11, subsection (a) is revised to read: "(a) at Lessee's expense, replace the same with like Equipment in good repair, free and clear of all liens, claims and encumbrances," or...

(d) In the fifth (5th) line of Section 11, the word "Lessor's" is inserted before the words "actual cost".

(e) In the sixth (6th) line, the words "total rent for the initial term" are deleted, and the following words are substituted therefore "total rent and other payments due for the remaining balance of the initial term, and any renewal term or purchase option extended payment period provided for in Addendum A to this Lease."

2. Section 12 (a) of the Lease is amended as follows:

(a) Subsection (i) is amended in its entirety to read as follows:

"(i) accelerate and declare immediately due and payable (and sue for and recover) the sum of (x) the aggregate rents due and to become due for the balance of the initial term of this Lease, discounted to present value at the fixed rate of six percent (6.00%) per annum, and (y) \$170,000.00 (representing the minimum amount Lessee has contracted to pay under the mandatory purchase or renewal option), which sum, together with all other accrued and unpaid rents and other sums due hereunder, shall become immediately due and payable by Lessee;"

(b) Subsection (ii) is amended to delete the words "the total rent for the term as set forth in paragraph 4 hereof;" and to insert in their place the following words "the total rent and all other sums due in accordance with subsection (i) above;"

(c) Subsection (iii) is amended in its entirety to read as follows:

"(iii) sell or lease any or all items of Equipment at public or private sale for cash or on credit, or if leased, to such persons and upon such terms as Lessor shall elect, and recover from Lessee all costs of taking possession, storing, repairing, and selling or leasing the Equipment, together with an amount equal to forty-five percent (45%) of the actual cost to Lessor of the items of Equipment sold or leased, plus the total rent and all other sums due in accordance with subsection (i) above, less the net cash proceeds of such sale or the net cash proceeds realized, if any, by Lessor from a discounting of any re-lease rents (but only for such period ending with the expiration of the initial term of this Lease),"

(d) In Subsection (iv), the word "terminate" is deleted, and the word "cancel" is substituted therefore.

(e) Subsection (v) is deleted, and no substitution is made therefor

3. Section 12(d) of the Lease is deleted, and no substitution is made therefor.

4. Section 12 of the Lease is hereby amended to add the following paragraph at the end of the Section:

"To the extent permitted by applicable law, Lessee hereby waives any and all rights and remedies conferred upon a lessee by sections 2A-401 and 2A-402, and sections 2A-508 through 2A-522 of the Uniform Commercial Code, as adopted in the State of Illinois, including, but not limited to, Lessee's rights to: (i) cancel, terminate, repudiate or rescind the Lease; (ii) suspend performance of any of its obligations; (iii) reject the Equipment or revoke acceptance of the Equipment; (iv) recover damages or rent or the Equipment from Lessor for any breaches of warranty or for any other reason, or deduct any damages from any rent or other sums due Lessor; (v) a security interest in the Equipment in Lessee's possession or control for any reason; (vi) sell or otherwise dispose of the Equipment, or claim any expenses in connection therewith; (vii) deduct all or any part of any claimed damages resulting from Lessor's default, if any, under the Lease; (viii) accept partial delivery of the Equipment; (ix) "cover" by making any purchase or lease or contract to purchase or lease equipment in substitution for those due from Lessor; (x) recover any general, special, incidental, or consequential damages, for any reason whatsoever; and (xi) specific performance, replevin, detinue, sequestration, claim, and delivery or the like for any Equipment identified to the Lease. To the extent permitted by applicable law, Lessee also hereby waives any rights now or

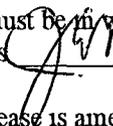
hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Equipment in mitigation of Lessor's damages hereunder or which may otherwise limit or modify any of Lessor's rights or remedies hereunder."

5. Section 13 of the Lease is amended in its entirety to read as follows:

"13. NO ASSIGNMENT, TRANSFER OR SUBLEASE BY LESSEE. LESSEE SHALL NOT ASSIGN, TRANSFER, SUBLEASE, OR OTHERWISE DISPOSE OF, ALL OR ANY PART OF ITS RIGHTS OR OBLIGATIONS UNDER THIS LEASE OR IN THE EQUIPMENT, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. NO ASSIGNMENT, TRANSFER, SUBLEASE OR OTHER DISPOSAL BY LESSEE SHALL, IN ANY MANNER WHATSOEVER, RELIEVE LESSEE OF ANY OF ITS OBLIGATIONS HEREUNDER, AND LESSEE SHALL REMAIN PRIMARILY LIABLE TO PAY AND PERFORM ALL OF ITS OBLIGATIONS HEREUNDER."

6 Section 14 of the Lease is hereby amended to add the following additional sentence at the end of the Section: "Lessee acknowledges that any such sale, assignment or grant of security interest shall not materially change Lessee's duties or obligations under this Lease nor materially increase the burdens or risks imposed on Lessee."

7. The first sentence of Section 23 is hereby amended in its entirety to read as follows:

"This Lease constitutes the entire agreement between the parties with respect to the subject matter of this Lease, and any change or modification thereto must be in writing and signed by the parties hereto. Lessee's Initials  [LESSEE TO INSERT INITIALS]"

8. Section 27 of the Lease is amended in its entirety to read as follows:

"27. Single Lease. Despite the title of this Lease, "Master Equipment Lease Agreement", this Lease (including Schedule A and Addendum A thereto) constitutes a single lease agreement, and is not intended to be, nor shall anyone construe it to be, a master lease agreement. No further schedules will be executed under this Lease. This Lease will be executed in counterparts. Only that counterpart marked "Original" shall constitute "chattel paper" as that term is defined in the Uniform Commercial Code. All other executed counterparts will be marked "Duplicate".

9. The last sentence of Section 28 of the Lease is hereby deleted, and no substitution is made therefor.

10. The first three paragraphs in Addendum A to the Lease are hereby deleted, and replaced with the following paragraphs:

"Provided Lessee is not then in default under this Lease and all Lease payments are then current, Lessee shall have the option to terminate this Lease at any time after thirty-six (36) months from the first payment date hereunder, upon payment to Lessor (or its assignee, if this Lease has been assigned) of an amount equal to the sum of (i) the then fair market value of the Equipment, as determined in the sole and absolute discretion of Lessor at the time said option is exercised, (ii) the aggregate remaining unpaid rents due and to become due for the balance of the initial term of this Lease, discounted to present value at the fixed rate of six percent (6.00%) per annum, and (iii) an early termination premium of One Hundred Seventy Thousand (\$170,000.00) Dollars. The sum of the amounts payable in subsections (i), (ii) and (iii) above shall be called the "Early Termination Payment".

If Lessee does not exercise the above early termination option, Lessee covenants to Lessor, its successors and assigns, and irrevocably agrees, that it will exercise one of the following two options set forth below (said exercise is mandatory by Lessee and an express condition of this Lease)

1. Lessee can elect to purchase the Equipment at the expiration of the initial term of the Lease at a price equal to the greater of (i) the then fair market value of the Equipment, as determined in the sole and absolute discretion of Lessor at the time said option is exercised, or (ii) the sum of One Hundred Seventy Thousand (\$170,000.00) Dollars. Upon request by Lessee, Lessor will provide Lessee with a written quotation for said purchase price. If Lessee elects this purchase option, upon satisfactory completion of the Lease and Lessor's (or if this Lease has been assigned, the assignee's) receipt of all payments due Lessor hereunder, Lessor will execute a bill of sale in favor of Lessee, and convey the Equipment to Lessee free and clear of all liens and encumbrances.

At Lessee's option, the purchase price may be paid to Lessor (or if this Lease has been assigned, its assignee) in twelve (12) equal consecutive monthly installments, with interest (payable monthly concurrently with each installment) calculated at a fixed rate equal to the greater of (i) eight and one-half percent (8.5%) or (ii) two percent (2%) above Citibank's prime rate in effect on September 30, 2000, such payments to commence on October 1, 2000, and continue on the same day of each month thereafter. Once said purchase price has been fully paid, Lessor will transfer all of the Equipment to Lessee free and clear of all liens and encumbrances.

2. If Lessee does not elect to purchase the Equipment pursuant to Section 1 above, and has not exercised its right of early termination set forth above, Lessee irrevocably agrees that the term of this Lease shall be automatically renewed for an additional nineteen (19) months, beginning with the first month following the expiration of the initial term of this Lease. Lessee shall pay Lessor as rent for such renewal term eighteen (18) consecutive monthly payments of \$7,250.00 each, commencing on October 1, 2000, and continuing on the 1st day of each month thereafter, followed by a payment for the nineteenth (19th) month of \$3,625.00."

11. The name of the Lessee in the Lease and all related documents is amended to read: "Indiana Harbor Belt Railroad Company".

Lessee acknowledges, for the direct benefit of Lender, that if Lessee does not exercise its right of early termination as set forth in Addendum A, as amended hereinabove, that Lessee remains unconditionally obligated to exercise either the purchase option or renewal option set forth in Addendum A, as amended hereinabove.

Except as specifically amended and modified hereby, all of the terms and conditions of the Lease shall stand and remain unchanged and in full force and effect.

DIVERSIFIED FINANCIAL CORPORATION  
LESSOR

By: William J. Brown  
Title: President

Lessee hereby acknowledges and certifies that the above-described terms, conditions and representations are accurate and true, that Lessee will make the Payments herein stipulated directly to Lender, and that it is duly authorized and empowered to execute and deliver this Notice of Assignment and Amendment Agreement. Lessee further acknowledges that the Lender is relying on this Notice of Assignment and Amendment Agreement in agreeing to discount for Lessor the remaining rents and a residual amount (based on Lessee's obligation to exercise either the early termination option, the purchase option or the renewal option set forth above). Lessee understands and agrees that Lender's loan to Lessor is to be fully repaid from the rents and the payment due from Lessee in connection with its exercise of the early termination option, the purchase option, or the renewal option.

INDIANA HARBOR BELT RAILROAD  
COMPANY, LESSEE

By: [Signature]  
Title: Controller

ACKNOWLEDGED

MANUFACTURERS BANK, LENDER

By: Mark Math  
Title: LOAN OFFICER



STATE OF Indiana  
COUNTY OF Lake ) SS

I, DIANE R PENDER, a Notary Public in and for said County, in the

State aforesaid, DO HEREBY CERTIFY that John E Dewitt

whose title is COMPTROLLER of the Indiana Harbor Belt RR

an Indiana Corporation, and known to me to be the same person whose

name is subscribed to the foregoing instrument, as such LEASE, appeared before me

this day in person and acknowledged that he signed and delivered the said instrument as his own

free and voluntary act and as the free and voluntary act of said Corporation as aforesaid, for the

use and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 6<sup>th</sup> day of September

1996

Diane R. Pender  
Notary Public

My Commission Expires:

~~~~~  
Diane R. Pender  
Notary Public, State of Indiana  
Lake County  
My Commission Expires 09/19/98  
~~~~~

STATE OF Indiana)  
COUNTY OF Lake) SS

I, DIANE R PENDER, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that John E Dewitt whose title is Comptroller of the Indiana Harbor Belt R R an Indiana Corporation, and known to me to be the same person whose name is subscribed to the foregoing instrument, as such LEASE, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Corporation as aforesaid, for the use and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 6<sup>th</sup> day of September

1996  
Diane R. Pender  
Notary Public

My Commission Expires:

~~~~~  
Diane R. Pender  
Notary Public, State of Indiana  
Lake County  
My Commission Expires 09/19/98  
~~~~~

